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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA

3:21-cr-00205-HZ

v.

**GOVERNMENT’S SENTENCING
MEMORANDUM**

MALIK FARD MUHAMMAD,

Sentencing: June 21, 2022, at 10:00 a.m.

Defendant.

Defendant Malik Fard Muhammad (“Muhammad”) threw a Molotov cocktail that landed approximately fifteen feet from a police vehicle, putting multiple officers at risk of death or serious injury. Two days later, he threw the same type of incendiary device at a line of police officers; it burst into flames and caught an officer’s pant leg on fire. Muhammad was finally arrested after being involved in hundreds of thousands of dollars in property damage to downtown Portland, supplying other rioters with baseball bats (which were also used to cause property damage), and fleeing from law enforcement with a firearm.

Muhammad has pled guilty to two counts of unlawfully possessing destructive devices, and the government has agreed to dismiss remaining charges, which included 10-year mandatory minimum sentences under 18 U.S.C. § 844(h)(1) (counts 3 and 4). Muhammad also pled guilty to approximately 14 different counts (including Attempted Murder II) under Multnomah County case no. 20CR55953/2428293-1 and was sentenced to 10 years in state prison. Pursuant to the plea agreement, the parties jointly recommend Muhammad be sentenced to the statutory maximum of 120 months' confinement, to be served concurrent to Muhammad's state sentence.

Factual Background

Muhammad and his girlfriend traveled to the Portland Metro area from their home in Indianapolis, Indiana for the specific purpose of violently engaging in civil disorder; Muhammad was successful and now faces both federal and state convictions for his dangerous conduct.

On September 5, 2020, there was a large civil disturbance in east Portland, which included hundreds of people. Demonstrators threw dangerous objects at the police, including commercial grade fireworks, Molotov cocktails, bottles, and other objects. At least one demonstrator was seriously burned by a Molotov cocktail that was thrown in the direction of the police. The event was declared a riot, and police made multiple arrests. Muhammad was present during this event and provided baseball bats to members of the crowd.

Following Muhammad's arrest in October 2020, law enforcement seized his cell phone and found messages where he bragged about providing baseball bats. The cell phone also contained a shopping list including common ingredients used to make a Molotov cocktail. The day after the violent demonstration, police located a discarded baseball bat with a Goodwill price tag in the area where the event occurred. Police found the Goodwill store where it was

purchased; surveillance videos and receipts revealed Muhammad and his girlfriend buying the bats and multiple “growler” bottles on September 4, 2020 (as depicted below):



On September 21, 2020, there was a large demonstration near the Multnomah County Sheriff's Office 'Penumbra Kelly Building'. At approximately 11:00 p.m., FBI surveillance units observed an individual light on fire and throw an object toward the Penumbra Kelly building property; this individual was later determined to be Muhammad.

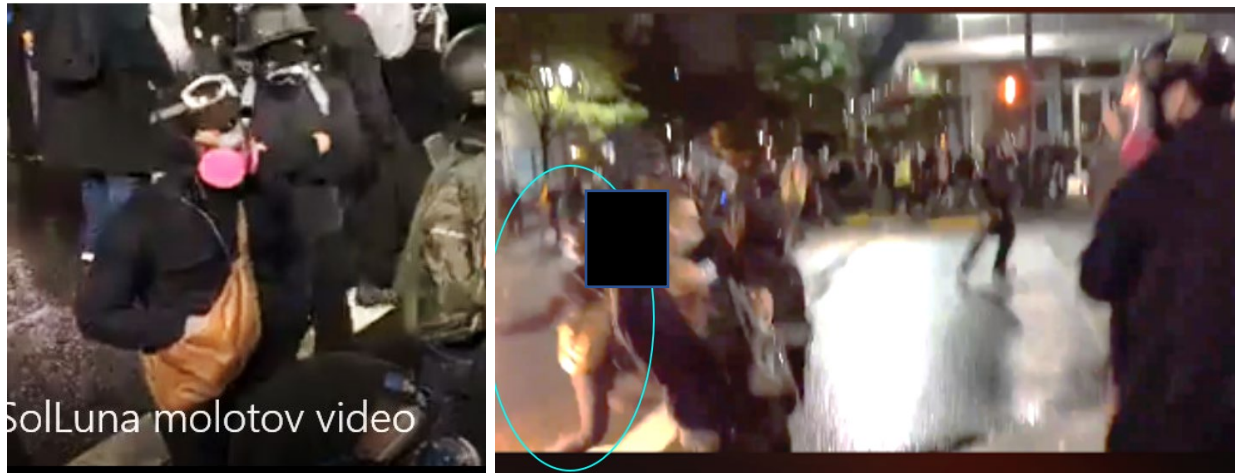
At the time, multiple PPB officers were stationed in a sound truck, equipped with police markings, lights, siren, and a long-range acoustic device system. One officer observed a burning object flying through the air towards his vehicle. The object landed on the upper parking lot of the Penumbra Kelly property, approximately ten to fifteen feet away from the sound truck. The officer exited the vehicle and discovered a large yellow bottle that resembled a beer growler. The bottle had a burnt rag stuffed in the mouth of the bottle and contained a large amount of

liquid. Portland Fire and Rescue (PFR) personnel responded and recovered the suspected incendiary/destructive device, also known as a Molotov cocktail. A PPB Fire Investigator tested the liquid inside, and it was found to be flammable.

The Molotov cocktail consisted of a yellow glass bottle or growler with a “Goodwill” sticker on the bottom (depicted below), a cloth wick, and ignitable liquid, yellowish green in color. Alcohol Tobacco and Firearms (ATF) special agents assisted with the device recovery which was still fully intact. It was later determined the bottle was one of the growlers purchased at Goodwill by Muhammad and his girlfriend on September 4, 2020.



On September 23, 2020, there was a large demonstration at the Multnomah County Justice Center (MCJC). During the demonstration, protesters set the building on fire and broke windows to the building. Police attempted to move the crowd away from the building. When officers advanced towards the crowd, Muhammad threw a Molotov cocktail in a large yellow growler that landed in front of the officers (depicted in photographs below). It shattered and exploded into a large fireball when it hit the ground. While some officers were able to move out of the way, one officer was sprayed with fire and his lower leg caught on fire for a brief moment.



On October 11, 2020, PPB officers were working in downtown Portland and monitoring a protest involving approximately 250 people. During the protest, one officer reported that the group began to heavily vandalize various businesses and parks in the city. In particular, the group tore down statues, smashed out windows at the Oregon Historical Society, Portland State University, Starbucks, Bank of America, and other area businesses. Additionally, the group used chains and vehicles to rip down and vandalize statues of Abraham Lincoln and Theodore Roosevelt.

During the event, FBI agents in plain clothes observed Muhammad within the crowd. Muhammad was dressed in all black with a few small unique identifying details such as red and grey gloves. He was also carrying a shield that read words to the effect of “abolish police.” Agents report that during the event, they observed Muhammad use a metal baton to smash out the windows of the Oregon Historical Society, Portland State University, and many other businesses. Damages to these various buildings exceeded \$200,000.

Law enforcement attempted to arrest Muhammad, but he fled. Multiple officers chased after him; he tried to run behind some barrels before finally being arrested. Muhammad had a loaded pistol magazine in his pocket. Another officer recovered a loaded pistol behind the

barrels Muhammad ran behind. The pistol magazine located in Muhammad's pocket matched the pistol located behind the barrels. The pistol and magazine located on Muhammad contained 30 rounds of 9 mm ammunition.

On October 12, 2020, PPB obtained three state search warrants for the backpack Muhammad had been in possession of the night of his arrest, a dark blue Ford F250 bearing Indiana temporary license L402485, which Muhammad and his girlfriend had been driving, and a parked RV trailer in which they had been staying in. During the search of the travel trailer, police located multiple firearms including an AR-15 and shotguns. Law enforcement then spoke with the owner of the AR-15 rifle, AW1. AW1 explained that while living in Indiana, he/she met Muhammad in the months prior to his travel to Portland. He/she explained that Muhammad was attempting to recruit people to engage in violent activities, including an armed forceful takeover of a radio or television station. AW1 described Muhammad as a communist revolutionary who was attempting to gather people with firearms to engage in acts of violence.

Law enforcement also recovered five gas containers with different types of suspected fuel inside. ATF laboratory examination of the liquid from inside all five-gas containers confirmed that they all contained ignitable liquids, to include gasoline, ethanol, heavy petroleum distillates (HPDs), and fatty acid methyl esters (FAMES).

Muhammed's trip to Portland was not an isolated event; on his publicly available social media sites, he displayed Anti-Government/Anti-Authority Violent Extremist (AG/AAVE) ideology. Muhammad traveled to Louisville, Kentucky the weekend of August 14-16, 2020, with five other people to meet with groups in Louisville, Kentucky and to conduct firearms and tactical training in support of AG/AAVE ideology. Other postings included a photograph depicting events that occurred in Kenosha, Wisconsin and captioned it "Kill cops. Shoot back.

We say no justice no peace we mean NO PEACE.” A few days later, on Facebook he said he was in in Portland, Oregon, participating in First Amendment protected protests against police brutality. That same date, Muhammad re-posted a video of alleged police brutality where the subject fights back and captioned it “Fuck 12 shoot back.” The next day, Muhammad referenced a news article regarding Chicago gangs forming a pact to execute cops who draw weapons and captured the article “shoot, every opportunity you have.” Within a week, he was engaged in violent protests in Portland.

The Charges & Guideline Computations

Muhammad plead guilty to counts 5 and 6 of the indictment. Pursuant to the plea agreement, the Government intends to dismiss counts 1-4, upon sentencing of counts 5 and 6. The guideline calculations in the Final PSR were correctly calculated in paragraph 8. Franklin has a Criminal History Category of III.

ARGUMENT

Although the government has agreed to dismiss charges that implicated mandatory minimums, Muhammad has been sentenced to 10 years’ imprisonment for state charges that encompass the facts of this case. And the parties have agreed to recommend a de-facto 7-level upward variance to 120 months’ confinement, which represents the statutory maximum for unlawfully possessing destructive devices. In light of all the facts and circumstances surrounding Muhammad’s actions, a (concurrent) statutory maximum sentence is warranted.

Muhammad engaged in violent rioting and threw incendiary devices at or near law enforcement officers on more than one occasion, which could have resulted in death or serious bodily injury. He supplied rioters with baseball bats and engaged in destructive rioting that shook downtown Portland. When confronted, he fled from law enforcement while carrying a

firearm. Muhammad's intent ever since he left Indiana was clear—he wanted to commit violent acts against law enforcement and advocate others do so as well. He put lives at risk and destroyed property all while heavily armed.

And Muhammad was not just another protester that got carried away with emotion and made poor decisions. He traveled from Indiana, bought baseball bats for other protesters, combined the ingredients for Molotov cocktails, and hurled these destructive devices at uniformed police officers. He was more than a participant—he was an instigator. This was not a one-time act during a protest; Muhammad came to Portland—while heavily armed—with the intent to engage in violent activities. And he did just that.

Muhammad's history and characteristics, as evidenced by his own words on social media and his actions in August and September 2020, reveal a person driven to violence. Muhammad put the entire community—a community not his own—at risk, while specifically targeting law enforcement.

Conclusion

Muhammad's actions in this case warrant a statutory maximum sentence of 120 months' confinement for these violations, to be served concurrently to his state sentence, in addition to appropriate supervised release, and a \$200 fee assessment.

Dated: June 15, 2022

Respectfully submitted,

SCOTT ERIK ASPHAUG
United States Attorney

s/ Adam E. Delph
ADAM E.DELPH
Assistant United States Attorney